UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/814,563	03/31/2004	Zhibin Wang	ORACL-01513US0	6910

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EXAMINER
MITCHELL, JASON D

ART UNIT	PAPER NUMBER
2193	

NOTIFICATION DATE	DELIVERY MODE
05/06/2010	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

OFFICEACTIONS@FDML.COM

Advisory Action *Before the Filing of an Appeal Brief*	Application No. *10/814,563*	Applicant(s) WANG ET AL.
	Examiner Jason Mitchell	Art Unit 2193

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED <u>19 April 2010</u> FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

   a) ☐ The period for reply expires _____months from the mailing date of the final rejection.

   b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

<u>NOTICE OF APPEAL</u>

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

<u>AMENDMENTS</u>

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because

   (a)☐ They raise new issues that would require further consideration and/or search (see NOTE below);

   (b)☐ They raise the issue of new matter (see NOTE below);

   (c)☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

   (d)☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☒ Applicant's reply has overcome the following rejection(s): <u>35 USC 112 2nd rejection of claims 8-11, 13-14 and 23</u>.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

   The status of the claim(s) is (or will be) as follows:

   Claim(s) allowed: _____.

   Claim(s) objected to: _____.

   Claim(s) rejected: *1-4,6-11,13-15,17 and 20-26*.

   Claim(s) withdrawn from consideration: _____.

<u>AFFIDAVIT OR OTHER EVIDENCE</u>

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome <u>all</u> rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

<u>REQUEST FOR RECONSIDERATION/OTHER</u>

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: <u>See Continuation Sheet.</u>

12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____

13. ☐ Other: _____.

/Jason Mitchell/
Primary Examiner, Art Unit 2193

Continuation of 11. does NOT place the application in condition for allowance because: Claim Rejections under 35 USC 112:
The applicants' amendment is sufficient to overcome the previous 35 USC 112 rejection which is consequently withdrawn.

Claim Rejections under 35 USC 103(a):
In the 3rd full par. on pg. 8, the applicants state:
McNeely notes that a one-to-one mapping is not required between the communications network test system language and the device-specific languages. However, Applicant respectfully submits that it appears that there must be a mapping of the core functions of the test system language and the device-specific languages, or else the combination would be nonfunctional. For example, if the communications network test system language provides no mapping for testing a menu item (not for accessing or using a menu item, but for testing the menu item), then the resulting combination would be unable to test basic GUI functionality, rendering it useless. McNeely does not appear to include GUI test commands, or suggest that GUI test commands could be readily added or supported.

The examiner respectfully disagrees. First it is noted that the claims do not recite details of the device independent or device specific languages (i.e. "directives" or "input commands"). Accordingly the "mapping for testing a menu item" described by the applicants does not represent a patentable distinction. More importantly, it is noted that any such directives or commands needed to test a GUI which were not provided in McNeely's original language would more than likely be known in the prior art GUI test tools taught by Dubovsky. Thus 'extending' McNeely's language to include such commands (and associated mappings) would, at least on its face, appear to be an obvious modification.

In the 4th full par. on pg. 8, the applicants state:
Applicant respectfully submits that, based on the above description, if the communications network test system language of McNeely were to add generic GUI test commands in addition to the generic network device test commands, then the purpose of the communications network test system would be frustrated. The communications network test system appears to have been developed to simplify the testing of network devices. Adding ancillary functionality, such as generic GUI test commands, adds unnecessary complexity to the communications network test system language. Such a combination would appear to complicate, rather than simplify, the process of network testing.

The examiner respectfully disagrees. First, the examiner does not believe that increased complexity associated with added functionality 'frustrates' the functionality of McNeely to the point that the combination would be non-obvious. For example, if a tester did not intend to test any GUIs then the additional commands can simply be ignored. If GUIs were to be tested the extended directives could easily be learned from standard language documentation. .